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ABSTRACT

This document presnts a series of lesson plans on the subject of illegal drugs. Each lesson plan includes readings, discussion questions, and other activities that teachers can use to help students understand the problems surrounding drugs and to work toward solutions. Units include: (1) "Problems and Proposals"; (2) "Assessing Public Opinion: Views You Can Use"; (3) "Fourth Amendment and the Exclusionary Rule"; (4) Drugs and the Courts: Applying the Exclusionary Rule"; (5) The State Legislative Process: Formalizing Policy through Law"; and (6) "Making Public Policy Work: The Community and the Individual." A glossary explains 26 relevant terms from the readings. (SG)

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THE DRUG QUESTION

The Constitution and Public Policy

ED 364 462

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Second Edition

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Second Edition

THE DRUG QUESTION

The Constitution and Public Policy

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General Introduction

As a young person in the United States today, you are well aware of the dangers of substance abuse. You have probably participated in a drug education program at school. Whenever you pick up a newspaper or listen to the radio or watch television, you find out more about the problems of drug, alcohol, or tobacco abuse. Rock and roll artists write songs about drugs or tell about their personal experiences in overcoming them. The plots of many movies and police dramas revolve around drugs. You may even know someone who has gotten into trouble with drugs or alcohol.

Leaders from almost every segment of society agree that drug abuse causes problems. Armed with studies and statistics, they point out that drug abuse costs business and industry millions of dollars each year. School leaders demonstrate that drug abuse can interfere with student motivation, discipline and learning. Health professionals know the toll drug abuse can take on the human brain and body. Social workers point out that drug abuse can destroy families, contribute to child abuse and neglect, and damage the quality of life of a community. Psychologists show that drug abuse can promote mental illness and anti-social and violent behavior in individuals. Clearly, drugs are destructive. Drug abuse doesn't cause one problem, but many different problems.

Alcohol abuse is another serious concern. It causes many of the same problems associated with drug abuse. And, because more people use alcohol than drugs, the overall damage caused by it to society is considerably greater. In fact, the sale and distribution of alcohol was outlawed in the United States between 1919 and 1933. Today, there are a growing number of laws which regulate its use. For example, it is a crime to drive under its influence, to sell it to minors or consume it in various public places. In some states and counties, it can't be sold or served in restaurants. Still, in spite of its potentially harmful effects, it is not against the law for adults to buy or possess alcohol. For many drugs--cocaine, marijuana, methamphetamine, hallucinogens and others--it is.

Attempts to end drug abuse in our country have not worked and have also caused thorny problems in themselves. Laws making drug possession and sale illegal have forced the trade in drugs underground. With the steady demand for illegal drugs, criminal suppliers reap billions of dollars in profits each year. The lure of money encourages more suppliers to enter the market. Ruthless competition among suppliers has led to violent crime. Drug users, especially addicts, faced with the high street prices charged by suppliers, commit crimes--robbery, burglary or theft- -to support their habits. Trying to discourage drug sales and use, we have passed tougher laws carrying higher sentences and poured more money into law enforcement. Drug arrests and convictions have increased, overwhelming our court system with drug cases. Our jails and prisons are also crowded beyond capacity.

These realities leave our society with some very tough questions and hard decisions. Today, and in the years to come, all of us--as voters, employers and employees, officials or citizens--are going to have to face the problems associated with drugs. You too, have a part to play.

A Matter of Policy

Policy is a principle, a plan or a course of action followed by government, business, any organization or even an individual. Businesses make policies about how to treat customers or employees. Religious organizations such as temples or churches, or synagogues have policies about who should be members or what doctrines to follow. Families and individuals also make policies: all homework must be done before the family watches television or, when the parents are out of the house, the oldest sibling is in charge.

Under our Constitution, the people of the United States established a federal government consisting of three branches and gave each branch specific powers. Those powers not given to the federal government were reserved for the states which in turn have three branches of government: the legislative, the judicial and the execu-

tive. State constitutions establish types of local government, such as those at the county or parish level or those which serve cities and towns. All of the branches, at all of the levels, have a part to play in making and implementing policy. They do it by proposing, passing, and enforcing laws and regulations.

When President George Bush declared a "war on drugs," his administration marked the continuation of a strong drug policy begun under previous presidents. Because of its immense power and public recognition, the Office of President is often at the forefront of policy making. This process begins when a candidate for president runs for election. The platform of the party nominating the candidate is really a list of policies. If elected, the candidate will try to carry them out. Once a candidate becomes president, he or she is in a unique position to do so. Here are a few ways the president influences and participates in policy making:

- The president appoints cabinet officers, numerous executive branch officials, and many federal judges. It is normal for presidents to select office holders on the basis of their views on various political, social and legal issues. For example, the president appoints the attorney general of the United States who heads the massive federal Justice Department. It is the job of this agency, among other things, to prosecute federal crimes and provide help to state governments in fighting crime throughout the country. The attorney general sets the priorities for the department: how many prosecutors should be assigned certain kinds of cases, or how charges should be filed against certain kinds of defendants. Obviously, if the president believes that certain kinds of crime, such as those that are drug-related, should be strongly prosecuted, the attorney general has a lot of options to make it happen.
- The president, as head of his or her party, and because of the power and the prestige of the office, has considerable ability to influence Congress to pass laws which will advance the president's policies. For example, the president can propose tougher drug or alcohol laws, work with congressional supporters to get them introduced and acted upon, and through personal and political pressure, get them passed.
- The president, through the Office of Management and Budget, also prepares the federal budget which is then submitted to Congress for its approval. By increasing money for certain government functions and decreasing others, the president's policy-making power is advanced.
- Finally, as leader of the United States, the president is the most visible and well-known government official. Reporters from television, radio and newspapers cover every speech, appearance and action of the president. This gives the president tremendous power to inform the public and shape its opinion. By so doing, the president can explain and win support for his or her policies.

What the president does at the national level, governors and mayors do at the state and local level. While their powers vary, they too have an executive function and leadership role in policy making. Working with the state legislature, a governor promotes the passage of various kinds of laws, prepares and negotiates a budget and appoints officials. A mayor works with a city council in much the same way.

The Legislative Role in Policy Making

Of all the branches of government, the legislative has the greatest role to play in policy making. It is the job of our elected representatives at the federal, state, and local level to make and pass the laws we as a society agree to abide by. Laws serve many purposes. They can make certain actions, such as drug dealing or possession, criminal. They also can impose penalties on individuals who break the law. Laws can provide resources or services for solving problems, such as expanding counseling programs for people who are trying to break their drug habits. In short, law formalizes policy.

Both Houses of Congress have the power to investigate and hold hearings to determine what kind of legislation might be required to deal with social, political or economic problems. Both Houses use the committee system to do this important work. For example, a select committee can be appointed to hold hearings, compel witnesses and make recommendations on a certain problem or proposed legislation. Recently, Congress has been very active in holding hearings on issues relating to drugs.

Once the work of the committees is accomplished, any proposed legislation goes

through the process of debate and political compromise where it is tested, modified and shaped. Only when legislation passes both houses of Congress and it is signed by the President does it become law.

While most state legislatures follow similar procedures, law-making at the local level can be quite different. Still, the end product should be the same. Through the process, a law or ordinance should serve the public good, accomplish the purpose it was meant to serve and meet the standards imposed by the state and/or federal constitution.

Public Policy and the Court

The judicial branch of government also has a role to play in the development of public policy. Once policy is formalized into law or regulations, the courts must make judgments about how they apply to certain situations. For example, with a criminal law, courts are called upon to determine if a person charged with a drug crime is truly guilty. On the civil side, a court may have to determine whether an individual could be required to take a drug test at work. Sometimes the courts have to decide whether a law designed to advance public policy conflicts with higher principles, those contained in the Constitution.

While almost all courts, state and federal, interpret the Constitution, the U.S. Supreme Court is the final authority. In fact, by interpreting the Constitution, the Court also makes public policy. For example, the Court requires police to follow certain procedures when making an arrest or seizing evidence. These procedures were not created by legislatures or the executive branch. They were established and formalized by Court decisions through interpretation of the Fourth, Fifth, Sixth and Fourteenth Amendments of the U.S. Constitution.

Public Policy and You

It might seem that an individual citizen has little role to play in debates or decisions about public policy. Yet, our constitutional system guarantees each of us a voice if we choose to use it. At age 18 we can vote in federal and in many state elections. This gives us the power to participate in choosing our representatives and other elected officials. In states which use the initiative or referendum, we have an actual say in the creation of law.

The First Amendment gives us the rights to speech, petition and association. With them we can make presentations to local government bodies such as city councils, write letters to representatives or newspapers and work together in groups to influence policy making. Groups such as the *American Civil Liberties Union* (ACLU), the *Moral Majority*, *Common Cause*, and *Mothers Against Drunk Driving* (MADD) have changed policies. It is through the support of individuals that they get the power to do so.

Whatever level of participation you choose to have, it pays to be informed. This is true of drug policy or other important issues facing our society. This book will give you a start. You'll learn about some of the problematic drug-related issues our policy makers face. You'll learn about some of the policies and laws that are being debated to deal with them. We'll go behind the scenes and find out how some of our major institutions work when debating and formalizing policy. You'll discover the role played by public opinion, the media and special interest groups. Finally, you'll learn to ask tough questions about proposed policy: *What is it supposed to accomplish? Will it do so? What other consequences will it have? What other policies might work better?* These are important questions; public policy affects us all.

Questions For Discussion

1. What is a policy?
2. What are some examples of policies at your school?
3. How does the president influence policy? Congress? The courts?
4. What are some connections between public policy and law?
5. What kinds of laws regulate alcohol and tobacco use? How are they similar to those regulating drugs? How are they different? What might be some reasons for their differences?
6. Besides the drug question, what are some other major public policy issues facing our country today?

President Bush preparing to unveil the administration's new drug policy. (UPI/Bettmann Newsphotos)

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UNIT I

PROBLEMS AND PROPOSALS

In recent times, problems associated with drugs have captured public attention. We read, hear or see references to "America's Drug Crisis." In response to the crisis, policy makers and politicians at all levels of government declare "war" on drugs. News conferences are called; new laws are passed. The media, newspapers, radio, television and book publishers also respond, devoting more coverage to the issue. Government agencies responsible for law enforcement, health care or public housing move into action to show that they are doing something about the crisis. This leads to more media coverage and more legislation often to provide more money or resources to fight the war. Public opinion polls reflect the increasing activity which spurs even more action. For a while at least, other significant social problems--AIDS, homelessness, the national deficit, international terrorism--take a back seat. Ironically, not too long before, they too were crises and wars were declared against them as well. It sometimes seems that we as a society don't respond to problems unless there is a crisis, and when we do, we have to declare war.

While everyone agrees that the United States has significant problems with drugs, developing policies to deal with them in a climate of crisis also creates questions and problems. To develop effective policy, you have understand the problems being addressed. To understand the problem, you need good information. Once the problem or problems are understood, you have to test the proposed solutions. Do they deal with the problem? Will they work? What additional problems might the solutions themselves create? What resources are needed? Will the money be well spent? While these questions are crucial for policy and law makers, they are just as important for all citizens. Ultimately, policy and law affects all of our lives. In turn, we can affect policy, as voters, by influencing our representatives or by giving our opinions to a pollster.

In this unit, you will examine how drugs affect a number of areas: our criminal justice system, our workplaces, schools, the health care system, and international relations. Working with your classmates, you will also examine some proposed policy solutions to address these problems and ask some tough questions to evaluate them.

Drugs and Health Care

Imagine yourself being wheeled into an emergency room at your local hospital. You've just had a serious car accident and need immediate help. Three other patients also await emergency care--one is shaking uncontrollably because of a crack seizure, another has been shot in a drug-related fight, and a third is about to give birth to a cocaine-addicted baby. There is only one physician on duty. Who will have to wait? What will happen while they wait?

This scene takes place in our nation's cities on a regular basis. Medical emergencies caused by drug abuse can put an enormous burden on hospitals. Hospitals don't have enough staff or adequate facilities to care for the drug-related violence, drug overdoses, drug-addicted babies and mothers and drug-related AIDS cases. It is not just the large metropolitan city hospitals that face these problems. It is also true of smaller cities and rural communities. Although there may not be as many incidents outside of metropolitan areas, there are also fewer well-trained emergency physicians.

The drug problem exists in almost every kind of community. A 1988 U.S. Department of Health and Human Services survey of drug abuse indicates that despite the widespread availability of addictive drugs, millions of Americans who once used them appear to have stopped. However, death and health-care emergencies related to drugs have increased since 1985. These increases are attributed to the coca plant, specifically cocaine and crack, a smokeable form of cocaine.

Types of Drugs

Cocaine was once thought to be harmless. Science has found however, that in addition to its mind-altering effects, cocaine can cause serious health problems and even death. Cocaine can disturb a person's heart rhythm causing a heart attack. Brain hemorrhages and strokes are also common among cocaine users.

Crack is less expensive. No needles are used. The addicts' fear of needle contamination which may cause AIDS, hepatitis or other communicable diseases makes crack more attractive. Its effects, however, are more intense

Cocaine and crack are only two of the illegal drugs which concern physicians. Heroin, marijuana, "speed," PCP, LSD, and designer drugs such as "ecstasy" can also cause serious health problems.

There are 500,000 to 750,000 heroin addicts in the U.S. Heroin enters the brain rapidly and is so addictive, it is not available even by prescription. Although heroin users are generally older than those who use cocaine, a younger generation is being attracted to "moonrock"--a mixture of heroin and cocaine. Heroin is said to soften the paranoia and depression which may follow a cocaine high.

Marijuana, although still the most widely used illegal drug, has decreased in popularity. In 1985, 18 million people used marijuana on a regular basis compared to 12 million in 1988. When used, marijuana makes people feel relaxed and it alters perception. However, it also impairs short-term memory. Extended use makes one less energetic and causes mood changes. Marijuana cigarettes, just as with tobacco, can also cause lung damage and trigger asthma attacks. Using marijuana may also make a woman's menstrual cycle irregular and decrease the sperm counts in some men.

"Speed" or "crank" are slang terms for the drug methamphetamine. Almost all of it is produced in the U.S. It is highly addictive and often causes uncontrollable manic behavior or paranoia. Crystallized methamphetamine ("ice") is a new smokeable form from Asia. Drug dealers claim it is safer and sell it for less, but overdoses are often fatal.

PCP (phencyclidine) is one of the most dangerous drugs. Originally developed as an animal tranquilizer, the effect of PCP or "angel dust" is unpredictable, causing psychosis, coma, violent behavior or acute confusion.

LSD (lysergic acid diethylamide) causes dizziness, weakness, nausea and a prickly sensation on hands and feet and around the mouth. Within two to three hours, the drug causes hallucinations which can recur weeks or even months later.

Designer drugs are created by chemists to produce effects similar to illegal drugs. However, these drugs are not made up of material regulated by the government. "Ecstasy" is one such drug. A combination of synthetic mescaline and amphetamine, it produces hallucinations and can lead to permanent brain damage and death from overdoses.

Medical Care Problems

These drugs not only cause medical problems, but they increase the cost of medical care. Insurance companies are increasing the cost of the premiums on medical coverage policies because of drug-related claims. Hospitals are often not reimbursed adequately for drug user care. Many drug users don't have medical insurance and can't afford to pay. Doctors in many major cities say that almost half their emergency patients are drug users.

AIDS and cocaine-addicted babies born to addicted mothers are two consequences of drug abuse which are both tragic and a huge financial burden. Intravenous drug users, their sexual partners and their children account for an increasing proportion of reported AIDS cases. It costs approximately $60,000 to treat a person with AIDS, including the cost of the doctor, the hospital and nursing home services. This does not include the money lost due to lack of productivity and death.

In a survey of 36 hospitals, the National Association of Perinatal Addiction Research and Education reported that 11% of all newborns had been exposed to drugs before birth. In a survey of 18 other hospitals conducted by a congressional committee, 15 hospitals reported that babies born to addicted mothers had increased three to four times since 1985. The average hospital stay for a newborn is three days. Because of low birth weight and other problems, babies born to drug-addicted mothers stay for an average of 42 days. If addicted, they must be nursed through withdrawal. One study suggests that it costs $125,000 to treat one infant born to a crack-addicted mother.

Many hospitals still lack beds, doctors and nurses and money to pay for day to day expenses, partly because of the extra burden placed on them due to drug-related illness. What can, will, and should hospitals do to meet the needs of all their patients, not just the drug-related cases? Who will have to wait? What will happen while they wait? There is some hopeful news as reported by the Federal Drug Abuse Warning Network. For the first time in a decade, during the last three months of 1989, cocaine induced cases at emergency rooms had dropped 22%. While officials warn that this fact does not yet demonstrate a trend, it may lessen the burden of certain hard-pressed hospitals.

Questions For Discussion and Writing

1. What are five illegal drugs that cause health problems? Describe them.
2. How do health problems caused by illegal drugs effect our nation's health care system?
3. Write a one paragraph summary of the information in the reading covering the major points. Be prepared to share this summary with classmates.

Drugs and the Workplace

• On a cold and rainy night, a cargo train misses its connection and rams into the rear end of a passenger train. Fifteen people are pronounced dead on the scene and nearly a hundred more are rushed to the county hospitals. The cargo train's conductor is taken into police custody and transported to a hospital for blood and urine tests. The conductor tests positive for marijuana use.

• Jane Doe is employed with an insurance firm. In the last three months she has been habitually late for work, and the quality of her work has deteriorated. Her supervisors suspect she is using drugs and request her to take a drug test. She tests negative for drugs and sues the company for invasion of privacy.

Many of the issues involved in drugs and the workplace concentrate on health and safety concerns. Drugs and alcohol can impair job performance, reduce job productivity and contribute to work-related accidents and injuries. Experts note that alcohol and drug abuse increase absenteeism, health-care costs and accident liability costs. American businesses lose anywhere from $60 to $100 billion per year.

Clearly, drug-related incidents at work do cause problems. One incident at a turkey-packaging plant was cited in Newsweek's November 6, 1989 issue. The company hired a Pinkerton detective to find out why compensation claims were especially high for those who worked at night. They soon found the cause: "Employees were getting high on cocaine and jousting with forklifts, injuring themselves and damaging equipment. It was an absolute demolition derby," says Ron Schmidt, vice president of investigations for Pinkerton's. A Chamber of Commerce report claimed that drug users are four times as likely to be involved in injury-causing accidents at the workplace.

As an example of crime in the workplace caused by drug use cited in the same article, consider the story of Compaq Computer Corporation in Houston. By using detectives, the company was able to decrease inventory losses because "22 employees ...[were] accused of trading stolen computer chips for drugs." Other warning signals of drug use in the workplace include low productivity, tardiness and absenteeism. According to U.S. Chamber of Commerce statistics, recreational drug users are one- third less productive than other workers; three times more likely to get to work late; and are absent nearly three times as much as other workers.

The Drug-Free Workplace Act of 1988 requires businesses with government contracts to take a strong stand against drug use during work hours by publishing policies and procedures prohibiting illegal drug activity in the workplace. President Bush's anti-drug effort has also put pressure on American business to recognize and remedy the problem of drugs in the workplace.

Problems associated with drugs in the workplace have convinced many businesses to establish employee drug tests. Omni magazine (May 1988) reports that "about 80 percent of the nation's largest corporations now subject either job applicants or current employees to urinalysis as a condition of employment."

Drug testing is an extremely controversial issue. On one hand, individuals are protected against unreasonable search and seizure under the Fourth Amendment. Existing state and federal laws

and even employee union contracts also protect individuals against invasion of privacy. On the other hand, people's lives are at stake when someone in an extremely sensitive position, let's sav a control technician at a nuclear plant, uses drugs or alcohol. Most people agree that those responsible for public welfare or national security should be tested. People in the transportation industries, including air, land and sea travel can be legally subjected to more frequent and random testing than other kinds of workers. But what about workers in non-sensitive positions: clerks, librarians or computer technicians? Should they be subjected to tests even if there is no question about their job performance?

One problem is the reliability of drug tests. Unions, concerned with how their members are treated, are especially worried about the accuracy of drug tests. The most common test, Enzyme Multiple Immunoassay Test, is easy and inexpensive, but not very reliable. Sometimes a person will test positive for heroin use after eating a poppy-seed bagel; another person might get positive results for amphetamine use because they take antihistamines; or others might receive a positive result for marijuana use because they have taken over-the-counter pain relievers. Those against employee drug testing argue that the tests do not reveal the level of job impairment, but only what is in the worker's system. The tests do not show when the employee used the drug or how much of an illegal substance is in the worker's body. Because of these inherent limits of the tests themselves, some opponents to drug testing argue that the tests reveal what the workers do on their own time. Employers, they claim, should not be prying into the private lives of their employees. (However, employees responsible for public safety must adhere to stringent company policies regarding their conduct outside of work. For example, some bus drivers and pilots must not drink alcoholic beverages eight hours before they work.)

Problems related to drugs and alcohol abuse can affect any workplace and all kinds of workers: blue collar, service workers, white collar and professionals, even the board rooms of major corporations. Questions remain as to how we, as a society, should deal with the problems.

Questions for Discussion and Writing

1. How does drug and alcohol abuse affect the workplace?
2. What are businesses doing to combat the problems?
3. Write a one paragraph summary of the information in the reading covering the major points. Be prepared to share this summary with your classmates.

Youth, Drugs and Schools

By the age of 16, many teenagers have experimented with several different types of drugs including marijuana, cigarettes, steroids and alcohol. Some only try these substances while others become users. Unfortunately, the United States retains the highest rate of teen drug use of any industrialized nation. Teenagers in the U.S. are ten times more likely to use illegal drugs than teenagers in Japan.

Alcohol is the most popular, and perhaps the most dangerous drug used by American teenagers. While marijuana use has significantly declined in the last ten years, alcohol use is on the rise. The National Institute on Drug Abuse, who surveyed high school seniors, discovered that while only 18 percent had used marijuana, 64 percent had used alcohol and 29 percent had used tobacco in a one month period. Teens who use drugs are less interested in school, are more likely to drop out, and in the worst scenario, become associated with gangs who promote violence on and off campus.

Peer pressure is one reason teens become involved in drugs. Often, gangs and drugs become a way for teens to "fit in." A 1989 August issue of Ebony magazine cites a 16 year-old's account of why he got involved with the whole scene. Keith Houston says, "I joined because everybody else was doing it...the money was good...I use the money to buy clothes, food, drinks and PCP." The teenage years are perhaps the most difficult. Growing up and etching out an adult identity is difficult for many young people. Feelings of not belonging or being alienated are common. At this stage in the game, some problems seem overwhelming and some young people feel that friends or family cannot understand. Drugs and gangs become a way for some teens to cope.

To help teens cope and to combat the problems associated with teen substance abuse, some schools have started prevention programs while others are stressing more law enforcement measures. One drug prevention program employed in 30 junior high schools in California and Oregon offers educational options to students. In simulations and by watching videos, teens learn reasons for resisting peer pressure. To combat tobacco and alcohol use, teens analyze commercial advertisements that promote substance abuse. Students also organize their own programs including "Just Say No" Clubs, or SADD (Students Against Driving Drunk) Chapters that ask students and parents to sign a contract pledging not to drink and drive.

Other schools which are taking the "get-tough" attitude towards teen drug abuse are stepping up enforcement strategies. Some states, like California, have declared schools "drug-free" zones. This means that there are stricter penalties for selling or possessing drugs within a certain radius of a school. In some schools, student athletes must consent to random drug testing as a condition of participation. Within school grounds, expulsions for drug-related delinquency or crimes are becoming more frequent. One parochial school in Los Angeles is forcing students to submit to drug testing, while a school district in Illinois is now allowing drug-sniffing dogs to check lockers.

Tactics such as these raise questions about the civil liberties of students. While the Supreme Court has recognized that students are protected by the Fourth Amendment at school, their rights are not the same as adults. For example, courts have held that students, or their lockers, can be searched, if school officials have a reasonable basis to do so.

Law enforcement searches conducted on youth outside of school grounds have also been stepped up, especially for youth from low-income minority neighborhoods like Chicago's Cabrini Green. The legality of these searches is sometimes questionable. A Los Angeles Times article entitled "Blacks Take Brunt of War on Drugs," from April 27, 1990, gives an example:

> Rahman Stone, 14, son of the director of the Chicago Public Defender's Office, said he was stopped, cursed and searched by police in the middle-class Hyde Park community."They made us put our hands up against the wall and take everything out of our pockets...They said we 'fit a criminal description.'"

Police counter that while abuses sometimes take place, as a general rule such stops are conducted according to established guidelines.

Everyone wants to stem teen drug abuse. No one wants to see young people physically abuse their bodies during such an important stage in their development. Drugs can impair emotional, psychological and mental development as well as physical growth. But what measures should be taken to prevent teen drug abuse?

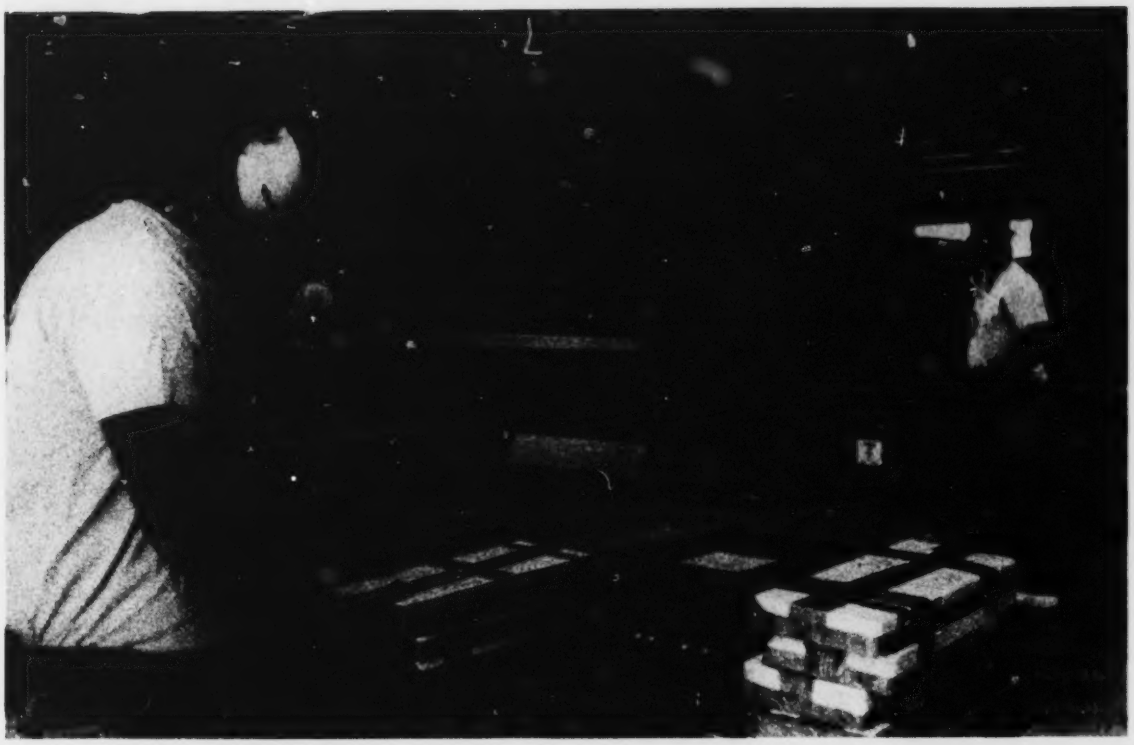
For Discussion and Writing

1. What substance is most abused by teenaged youth?
2. What are some ways schools are reducing student drug abuse?
3. Write a one paragraph summary of the information in the reading covering the major points. Be prepared to share this summary with your classmates.

Drugs, Crime and Enforcement

The problems of drugs and crime connect on several different levels. First, federal and state laws prohibit the unregistered sale and possession of narcotics. So, without the proper credentials and registration, the selling, possessing, transporting, holding or distributing of controlled substances are in themselves illegal. In 1988, for example, there were 1.2 million drug-related arrests in the United States. Of these, about 75 percent were for marijuana. Unfortunately, the illegality of drug sales and distribution is only the tip of the iceberg. Underneath, an entire network of illegal activities accompanies and supports the drug business.

In many areas, various gangs have taken over control of drug dealing. They compete with rival gangs and fight for sales territory. Because drug trafficking produces large profits, the drug business creates other crimes. Homicide and property crimes are only two obvious spin-offs of the drug trade. Criminal behavior that accompanies the drug business stretches from the addicts to the dealers.



Cocaine concealed in lumber highlights drug dangers in the workplace. (UPI/Bettmann Newsphotos)

If disputes arise, gangs often turn toward violent means to settle the matter. The Los Angeles Times (March 21, 1990) cites a New York study using ex-officers as an interesting police information base. This study reports that 90 percent of cocaine-related homicides stem from marketing conflicts between dealers, users and others involved in the drug business.

Drug addicts often resort to burglaries and robberies to support their habits. Even though crack and ice are considerably cheaper than cocaine and heroin, crack and ice users tend to use these drugs more frequently and in progressively larger amounts. Addicts can spend large amounts of money on their drugs. If they are unemployed, stealing becomes the only way they can raise money for their habit. Even when the addicts receive a steady paycheck, sometimes they must steal and rob in order to get enough money to pay for their next fix.

People also commit crimes while under the influence of drugs or alcohol. Drugs like crack, ice, PCP and alcohol remove social inhibitors that we all have and contribute to the criminal's reckless and dangerous behavior. Justice Department statistics for 1988 reveal that 54 percent of convicted criminals used alcohol before their offense and 70 percent of suspected criminals jailed tested positive for drugs.

Drug Enforcement and the System

In an effort to help solve some of our drug-related crime problems, federal and state legislatures have passed tougher laws to increase penalties for drug use or possession. Some of these laws demand mandatory jail or prison sentences for drug violators; others increase lengths of sentences. In addition, the federal and state governments have increased spending so that law enforcement can do a better job of investigating, arresting and convicting drug violators. For example, early in his administration President Bush proposed a $9.5 billion drug budget. Nearly three-quarters of the money was earmarked to support law enforcement activities. These proposals are only the latest in a trend that has been developing over several years.

By some measures, the policies have been effective. For example, between the years 1983 and 1987 drug arrests throughout the United States increased by 45 percent, drug prosecutions increased by over 500 percent and convictions went up over 700 percent (The New Republic, July 10, 1989.) The White House reports that drug use nationwide has fallen 37 percent since 1987, although the use of more dangerous forms such as crack cocaine has increased. Government seizures of illegal drugs have also increased; Coast Guard and Custom Service officials reported a 2500 percent growth in seizures between 1981 and 1987.

Interestingly, overall crime rates also declined in the comparable period: burglary decreased 27 percent; robbery fell by 21 percent between 1980 and 1987. There were even 3000 fewer murders per year. Supporters of tough drug policies point to these statistics and claim that the policies are working.

Critics claim that the numbers prove nothing or exactly the opposite. For example, it can be argued that crime-rate drops are not associated with tougher sentences for drug-related or other kinds of crimes, but result from the fact that the population is aging. Since males between the ages of 18 and 25 account for the commission of most crimes and there are fewer of them, the crime rate has dropped. This is the same population group most likely to use drugs, so argue the critics, the drug use rate has dropped as well. Opponents of current policies also claim that tougher enforcement has not stopped the flow of drugs into the country. For example, even with the huge increase in the amount of drugs seized, officials admit that 90 percent of the drugs coming in are never touched. While this debate can't be easily resolved, it does demonstrate that the same statistics can be used to support opposing views.

Other concerns have been raised about the effects of tough enforcement policies:

•Because of increased arrests and prosecutions, the courts in many cities are seriously overloaded with drug situations. This has led to long delays in trying civil cases, and in some situations, the dismissal of criminal cases because of a lack of judges to try them.

•State and federal prisons are filled beyond capacity. In 1989, the nation's prison and jail population passed one million inmates, double what it was in 1980. Drug convictions have played a big part in the increase. For example, in New York 45.5 percent of inmates are drug offenders. This has led to overcrowding, and in some cases, inhuman conditions and early release of prisoners.

•Tough enforcement seems to fall heaviest on the black community. While blacks make up only about 12 percent of the country's drug users, the vast majority of those arrested and sentenced for drug crimes are black. Many police and prosecutors admit that because many blacks conduct drug business or use drugs on the streets in poor neighborhoods, they are easier to catch. When they go to trial they often have to rely on overloaded public defenders for representation, unlike their wealthier white counterparts.

Finally, there is a concern that tough enforcement coupled with public pressure to do something about the drug problem is eroding constitutional due process and privacy protections. A recent poll conducted by the Washington Post gives support to this concern. Sixty-two percent of those polled said that they would be willing to give up "the basic freedoms" of the Bill of Rights if that would help reduce the nation's drug problems. Some argue that it is already happening, especially in poor neighborhoods where, for example, police employ "stop and frisk" techniques on a wide-spread basis. Local residents often support the practices to help get rid of drugs and the crimes associated with them. But these and other practices such as drug testing, leave advocates of civil liberties wondering: will the war on drugs leave all citizens with fewer individual rights and protections on a long-term basis?

Questions for Discussion and Writing

1. Name some of the crimes related to drug abuse. Are there any other crimes related to drugs that you can think of which are not mentioned in this reading?
2. What are some examples of recent criminal justice policies to reduce drug abuse? What have been the consequences of these policies?
3. Write a one paragraph summary of the information in the reading covering the major points. Be prepared to share this summary with your classmates.

Drugs and the International Connection

On the international level, drugs are another piece in the world power puzzle. How big an influence drugs play in foreign affairs often differs from country to country. Worldwide, the truth is that drugs generate money. Recently, Fortune magazine (June 20, 1988) described the problem in the following way:

> "Think of it as a huge, multinational commodity business with a fast-moving top management, a widespread distribution network, and price-insensitive customers...The global drug trade may run up to $500 billion a year, more than twice the value of all U.S. currency in circulation."

Drugs are a big business with all deals done on a cash basis. Any business that generates so much money is guaranteed to attract people's attention. Some people who participate in the drug trade live in underdeveloped nations. And in the economies of these smaller, poorer nations, drugs often bring in considerable and badly needed amounts of money.

For example, coca leaves are a major export of Bolivia and Peru. Peru's gross national product is almost as much as its national debt and its inflation rate is running at a high 25 percent per month. Bolivia reported its 1985 per capita income (average yearly salary of population) at $536. Both countries are struggling to keep their economies alive, and since the sale of coca leaves brings in large amounts of revenue, there is little incentive to change crops. Bolivian officials claim they need $300 to $500 million a year to help the peasants convert from farming drug crops to other alternatives.

The drug trade makes some very rich, even in nations where the economy is fairly stable, such as Columbia. Columbia, the oldest democracy in Latin America, receives $4 billion a year from the wholesale price of cocaine. Government officials estimate that the unemployment rate of Columbia would double to 25 percent without this drug business. In Columbia and other Latin American nations, the drug trade has political as well as financial consequences.

Drug barons who reap great profits from this international business have managed to disrupt whole countries through bribery and intimidation. They use a country's economic instability to create or intensify an atmosphere of political instability. It is said that drug barons in Latin America offer local police "plomo o plata (lead or silver), a bullet or a bribe." Drug cartels, like the one in Medellin, Columbia, use terrorist tactics like assassinations (57 judges and two government officials) and kidnappings, mainly of U.S. citizens.

The problems of the international drug trade are widespread and complex. Many countries use drug money to finance gun deals, for both legitimate and illegitimate reasons. More specifi-

Customs agents sorting out cocaine seized off Key West, Florida. (UPI/Bettmann Newsphotos)

cally, Panama's deposed political strongman, Manuel Antonio Noriega, is accused of having received payoffs to allow the drug trade to operate in his country for at least the last decade. His present wealth is estimated at $200 million. Revolutions in Iran and Afghanistan have been financed by drug money. Presently, Maoist guerrillas in Peru are financing their revolt with drug money.

"Cleaning" the Drug Money

What allows the drug trade to be so profitable is not only the wealth of drug consumers, but also the ease with which drug money mixes with legitimate investments on a worldwide basis. Money laundering—hiding drug money by funneling it into little-known banks or creating fictional businesses—reaches all over the globe. Money-laundering operations offer protection for drug lords, like secret accounts and dummy corporations with hidden ownership. A recent Time magazine article (December 18, 1989) reports that the drug barons launder billions of dollars by "using many of the same services available to the **Fortune 500**...drug smugglers can turn coke-tinged $20 and $100 bills into such untraceable, squeaky-clean assets as money-market deposits, car dealerships and resort hotels."

Once the drug money is safely inside a financial organization, it can be easily mixed with legitimate money and electronically moved with lightening speed. Computers and fax machines allow business transactions to occur without personal knowledge of the associates involved. Because of this increasing globalization of the world economy, it is difficult to monitor and separate the "good" money from the "dirty" money.

To Stop the Flow

Stopping the foreign flow of drugs into the United States has been a priority of the federal government for several decades. Efforts have borne mixed results. The Bush Administration has proposed several approaches to help sever the international connection.

Tighter border controls are one method. The number of U.S. Border Patrol personnel have been increased and they have been given more sophisticated hardware to track suspected drug smugglers. In addition, the U.S. Air Force is now providing advanced radar tracking aircraft to spot and follow private planes which may be carrying drugs. All of this costs money. To cover the costs, the Bush Administration has proposed that $1.6 million in federal dollars be spent.

Another method is to increase foreign aid to certain drug-producing nations. Much of this money is to be used for police hardware to help local authorities enforce their own domestic drug laws. Other money is proposed to help the economies of the counties involved. By improving the economy, it is hoped that local people will switch their energies away from growing or trafficking drugs. The U.S. has also stepped up diplomatic pressure on countries to take a strong stand against drug production and trafficking.

Administration efforts have met with both domestic and foreign criticism. Some have claimed that the approach is too "supply" oriented and point out that American demand created the drug trade in the first place. Other critics have expressed worry that these policies might translate into greater U.S. interference into the domestic affairs of other countries, especially those in Latin America. For example, United States motives were questioned when naval ships were sent off the coast of Columbia during the height of the Medellin crises.

The Bush Administration claimed that the action was part of routine naval exercises. Also, at a recent drug summit in Cartagena, President Bush promised Columbia's President that more will be done domestically to decrease the demand for drugs in the U.S.

In spite of these and other assurances, questions will continue to be raised about U.S. policies.

Questions for Discussion and Writing

1. Why are countries, like Columbia, Bolivia and Peru, producing coca leaves instead of growing other crops? Why can't these countries simply change to other crops? Who benefits from the sales of coca leaves and cocaine?
2. What policies have been proposed to stop the foreign supply of drugs?
3. Write a one paragraph summary of the information in the reading covering the major points. Be prepared to share this summary with your classmates.

CITIZEN RAP--LIVE

Imagine that you and your group are cast members of a revolutionary new cable television show called "Citizen Rap—Live." The show's premise is to give the audience a "citizen's-eye view" of current public policy issues facing the country. Each episode features cast members providing the public with a tough-minded analysis of a proposed policy, law or regulation. As the creator of the show said in an interview, "We were tired of the 'talk back' kind of shows where yelling and insults passed for intelligent dialogue. We think people are smarter than that. We're looking for light, not just the heat."

The show has gotten great reviews and is considered a breakthrough in television broadcasting, but the ratings aren't very high. Facing cancellation, the producers decide to feature more controversial issues. This week, at the last minute, they have decided to take on the topic of DRUGS!

The show is taped before a live audience in seven minute segments. Each cast member is responsible for making a brief presentation on an assigned part. Each must do a good job or the whole cast will look bad. Working together, it is your job to come up with a segment that is a winner.

Pre-production

Your first task is to prepare a "working script." The show's producer will give you a description of a proposed policy that deals with some aspect of the drug problem you have read about. Working as a group, discuss answers to the following questions. Be sure to pay attention and take notes. Each cast member will be making a one-minute presentation addressing one of these questions on the air.

1. What is the proposed policy and what problem is it designed to address?
2. What are the strengths of the proposed policy? What are the weaknesses of the proposed policy?
3. Given the strengths and weaknesses of the proposed policy, should it be implemented?
   Why or why not?
4. If your group supports the policy, how might it be improved?
5. If your group opposes the policy, what alternatives would you recommend to solve the problem?
6. Regardless of how your group evaluated the policy, could it be implemented? Why or why not?

Production

When you have completed your discussions, assign each cast member one question and prepare your presentations. The person taking question #1 should also be prepared to introduce the cast, and if there are more questions than cast members, also present on question # 6.

When it is time to "tape" your segment, arrange the cast in order of the question numbers and wait for the producer to tell you to begin.

POLICY PROPOSALS

Imagine that the following policies have been proposed to deal with some aspect of the drug problems facing the United States.

1. **Drugs and Health Care**: To protect unborn babies from the effects of drug abuse, medical personnel who provide pre-natal care will be required by law to report any pregnant woman they suspect of abusing drugs. If confirmed, the mother can be charged with a felony and/or committed to a state hospital or detention center until the child is born.

2. **Drugs and the Workplace**: To eliminate employee drug abuse at Friendly Freeze, a large fast food chain, the Board of Directors proposes to drug test all workers every three months. Those who fail the tests will be forced to participate in a drug treatment program. If the employee fails a second test, he or she will be fired.

3. **Youth, Drugs and Schools**: A local

school district is considering the following policy to reduce substance abuse in the schools. Any student caught using, buying or selling illegal drugs or being under the influence of alcohol or drugs at school will be expelled.

4. **Drugs, Crime and Enforcement**: To reduce violent crime related to the drug trade and ease the burden on law enforcement, the courts and prisons of drug cases, a national coalition of judges, prosecutors, criminologists and citizens calls for the legalization of drugs. Their plan includes a national system for the medical supervision of drug users, special programs for addicts and the establishment of drug taxes which will raise revenue for drug treatment and education programs.

5. **Drugs and the International Connection**: A Washington "think tank," which focuses on foreign policy matters, recommends an addition to the Monroe Doctrine. Besides giving the United States the right to counter any foreign invasion or intervention in the western hemisphere, the new policy would have the United States declare the right to intervene, with military force, if necessary, in the domestic affairs of any country which "substantially participates in the international drug trade." Under the plan, within 30 days of any actual invasion, the U.S. would turn over supervision of the country to the United Nations. The U.N. would conduct free elections to select a new government which would have to pledge to end the country's drug trade.

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Elderly woman expresses her opinion about drugs to pollster. (Bruce Roberts, Photo Researchers, Inc.)

UNIT II

VIEWS YOU CAN USE--ASSESSING OPINION IN YOUR COMMUNITY

Public Policy, Law and Public Opinion

The passage of laws is often directly influenced by the media: newspapers, magazines, books, radio and television. The job of the media is to keep the public informed on matters of concern to all citizens. Often, people first become aware of major social problems such as those related to drugs by reading or hearing about them in the media. As people think about and act on the problems, the media keeps the public aware of what is going on. As general agreement develops about how to deal with the problem, the media publicizes efforts to address it and reports on results. Finally, lawmakers carefully follow the media and gauge its effects on "the will of the people."

In a democracy, it is vitally important for lawmakers to understand how the public views important issues. Most want to be re-elected. There are many ways to assess public opinion besides the media. One way is to conduct a public opinion survey or poll. The purpose of these surveys is to gather information about large groups within society by asking a carefully selected number of people their views. The people selected for such surveys are sometimes chosen at random, a method of selection that assumes that the results will speak for the population as a whole. Other surveys select people because they represent certain kinds of interest groups or provide a particular point of view. For example, in trying to find out how a drug enforcement strategy is working, a poll might be given to police officers.

The result of public opinion research helps keep lawmakers aware of how the public is thinking and what kinds of policies or laws would be popular, workable or effective.

If pollsters wanted to know what television program was preferred by 16 year-olds in the United States, they would attempt to find a representative sample. How many 16 year-olds would have to be asked before the pollsters could make a good guess as to the most popular television show? Would it be good enough to ask 1 out of 10?

In a 1936 magazine, the Literary Digest, sent out ten million questionnaires to people. The question was who would win the Presidential election that year—Alf Landon or Franklin Delano Roosevelt? Two million people returned the questionnaire indicating Alf Landon would win by a landslide, that is, get many more votes than Mr. Roosevelt. How could two million people be so wrong? Mr. Roosevelt won by the landslide. Obviously something went wrong.

As it turned out, those polled were not representative of all the voters. The pollsters had sent the questionnaires to people selected from phone books or on lists of automobile owners. People who had phones and owned cars were not typical of the vast majority in 1936. They weren't representative of all the voters. The key, then, is to get a representative sample, not just a lot of people.

Pollsters have learned a lot since then. They could probably interview as few as 1500, 16 year-olds to discover the most popular television show. The sample they would use would include a representative number of boys and girls from all parts of the country and from all types of families. Then the pollster would make sure that each would have an equal chance of being selected. Their names could be drawn out of a barrel or randomly selected by a computer program. In either case, those selected would speak for all their peers. Within a few percentage points one way or another, asking the representative group a question would be like asking the entire group.

Assessing Public Opinion

Soon you will conduct your own public opinion survey to get some idea of how people feel about the drug problems and what kinds of measures they favor for dealing with the problem. You will note that many of the questions on the poll are designed to elicit views about the specific proposals you considered in Unit One.

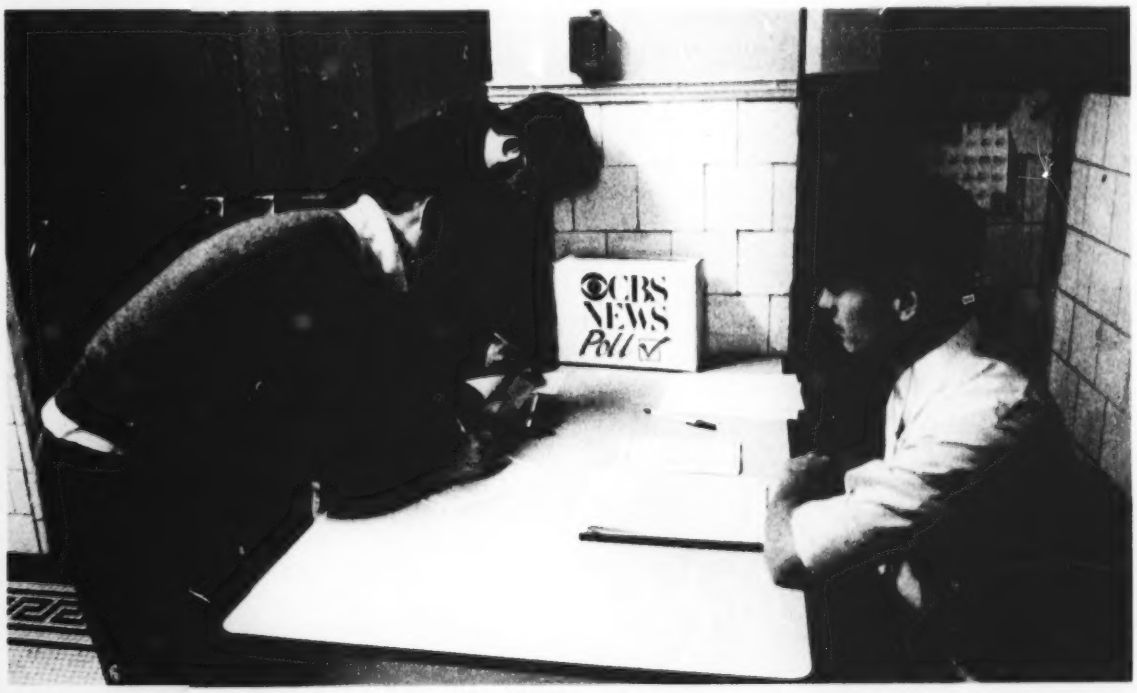
As a first step, you have to decide who you want to question: students, teachers, parents, administrators, employers, doctors, law enforcement officials, judges, etc. What groups of people would law and policy makers want to survey about drugs? Although pollsters always try to ensure that all people have an equal chance of being polled, you will more than likely want to interview people you know.

This approach comes with certain limitations. For example, personally you won't be able to draw inferences about how all parents feel, but you may be able to discover how most parents feel in your school district. To be able to draw that kind of conclusion, you should structure the survey so that all parents have an equal chance of being interviewed. If you cannot do that, be aware of the difficulty of generalizing based on your sample.

You also have to decide how many people you are going to poll. You don't have to poll everyone to get a good idea of how people feel. You need to poll a representative sample.

Tips for Conducting the Actual Poll

When approaching a stranger, you should introduce yourself as a student in _____ School and then explain that you are giving a survey for a class. Make sure to ask the individual whether he/she would mind spending a few minutes to help you complete your project. If he/she is reluctant to do so, don't persist — the responses of a reluctant individual are usually not usable. You should also be sure to tell the interviewee that his/her name is not necessary for the completion of the survey; results of the survey will be reported anonymously. It is a good idea for you to use a clipboard to hold the surveys. You should, of course, always end the survey interviews with a courteous "thank you."



High school students conduct a poll about drug use in school. (Bobbie Kingsley, Photo Researchers, Inc.)

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Finding Views You Can Use - A Questionnaire on the Drug Problem

1. Do you favor or oppose a plan which would expel a student using drugs such as marijuana, cocaine or alcohol at school?
   Favor Oppose No Opinion
2. Do you favor or oppose expelling a student caught selling marijuana, cocaine or alcohol at school?
   Favor Oppose No Opinion
3. Do you favor or oppose a company policy requiring drug testing of its employees?
   Favor Oppose No Opinion
4. Do you favor or oppose giving up the basic freedoms of the Bill of Rights if that would help reduce the nation's drug problem?
   Favor Oppose No Opinion
5. Do you think that employee drug testing should be limited to jobs where public safety is at risk or should all employees be subject to testing?
   Public Safety All Employees No Employees No Opinion
6. Do you favor or oppose the legalization of drugs if therewas drug user registration and supervision, drug abuse programs, and if tax revenue collected from drug sales was used for drug treatment and education?
   Favor Oppose No Opinion
7. Legislation has been proposed requiring medical personnel to report any pregnant woman theysuspect of using illegal drugs to authorities. If use of drugs is confirmed, the woman would be confined to a state hospital or detention center until after the child is born. Do you favor or oppose this legislation?
   Favor Oppose No Opinion
8. Should this legislation require confinement of pregnant women using drugs, or should they be required to undergo drug treatment instead?
   Confinement Both Drug Treatment No Opinion
9. There is a plan for use of the U.S. military in any country which substantially contributes to the international drug trade. The plan also calls for the United Nations to assumecontrol of the country and hold free elections to elect a government pledged to end the country's participation in the drug trade. Do you favor or oppose this plan?
   Favor Oppose No Opinion
10. What do you think is the most effective means for government to deal with the drug problem?

Police officer gathers up loose marijuana after more than 5,000 lbs were seized in a Houston warehouse. (UPI/Bettmann Newsphotos)

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UNIT III

THE FOURTH AMENDMENT AND THE EXCLUSIONARY RULE

The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail, its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England may not enter; all his force dares not cross the threshold of the ruined tenement. -William Pitt the Elder

In this famous excerpt from a speech given in Parliament in 1766, William Pitt provides an explanation of the oft-stated phrase, "a man's house is his castle." Twenty-five years later the Bill of Rights to the United States Constitution was adopted. Those original Amendments stand as firm reminders that we, as people in the United States, have certain rights which must not be abridged. The Fourth Amendment is one important example. Many of our constitutional provisions, including the Fourth Amendment, are a protection from something. Specifically, it protects people from unreasonable searches and seizures by agents of the government. But what is a "search?" What is a "seizure?" What is "unreasonable?"

In the landmark Supreme Court case of Katz v. U.S. (1967), a "search" was defined as any governmental intrusion into something in which a person has a reasonable expectation of privacy, e.g., real property and personal belongings (houses, yards, garages, apartments, diaries, briefcases and mail). "Seizure" is defined as any taking into possession, custody or control. An arrest is a form of seizure (taking someone's person into custody). Arrests, too, fall under the requirements imposed by the Fourth Amendment.

In general, the courts have held that a search or seizure is unreasonable unless it has been authorized by a valid warrant. A warrant is a court order issued by a judge or magistrate who believes that it is necessary to search a person or place, make an arrest, or seize evidence of crime. Before the warrant is issued, there must be evidence presented under oath, usually supplied by a police officer, that there is probable cause (good reason) to believe that a crime has been or is about to be committed, and the person, place or thing to be searched or seized is related to that crime. Warrants must specifically describe the place to be searched and the person or thing to be seized.

Once the police officer has a search warrant, he or she must carry out the search promptly (usually within 72 or 96 hours after the warrant is issued, depending on the state). Some states have laws which limit the time of day that police may prosecute warrants. Also, there are "no-knock" statutes in some jurisdictions. They allow the police to forcibly enter a place to execute a warrant when no one will let them in and police have reason to believe that a fugitive is hiding out or evidence is being destroyed.

Exceptions to the Warrant Requirement

There are a number of recognized exceptions to the requirement that police get a warrant before they search. For example, if a person consents to a search of a home, or in an emergency, such as a bomb threat, no warrant would be necessary. Or, if the police are in "hot pursuit" of a criminal suspect who rushes into an apartment, they do not require a warrant. They can enter and make the arrest. In many cases, police still need probable cause before they search. The key is, does a person have a reasonable expectation of privacy or does public safety outweigh the concern for privacy? Other situations which the Court has ruled that do not require a search warrant include:

- stopping and frisking a suspect
- searching abandoned property
- airline or border searches
- plain view
- automobiles

WHAT'S WRONG WITH THIS WARRANT?

Instructions for Your Group:

Read the hypothetical warrant looking for violations of the Fourth Amendment. Carefully list all of the violations and the specific section of the Fourth Amendment that is not being followed. For example, the last sentence is a violation of the Fourth Amendment because it does not "particularly" describe the persons to be seized. Do not put any item on your list until you are sure that each member of your group can explain why each violation is a violation.

The Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

WARRANT

To any sheriff, police officer, or peace officer in the county: Proof having been made before me under oath by Officer Charles Paxton that there is probable cause to believe that controlled substances may be found at the location described below, you are hereby commanded to search the residences in the south side of this city. You are further commanded to seize any object or papers you believe might be connected with sales of controlled substances that have occurred in this city. You are also authorized by me to use whatever means that are necessary to uncover stolen property that may be hidden in the residences described above. You are finally commanded to arrest any person who you believe may be a criminal.

Violation	Section of Fourth Amendment
1.	
2.	
3.	
4.	
5.	

In Oliver v. U.S. (1984) the Supreme Court went even further indicating that the Fourth Amendment protections were not extended to "open fields". Oliver had posted no trespassing signs around his fenced farm and had locked the entrance gate. Two Kentucky State narcotics officers, acting on information regarding marijuana, parked their car outside of the fenced area and walked around the gate. They went by a barn and a camper. Someone shouted from the camper, "No hunting is allowed." The officers shouted back that they were the police. There was no response and the police officers kept walking. They found a field of marijuana on the farm about a mile from Oliver's home. The issue, as the Court framed it, goes beyond the question of whether the owner of the property had an expectation of privacy. It includes the question of whether that expectation is reasonable. The majority said it was not.

In 1986, in the case of California v. Ciraolo, the Supreme Court reaffirmed and expanded on earlier rulings that the public and police may lawfully survey open fields from the air. Ciraolo was growing marijuana in his backyard. A police officer flew 1,000 feet over it. The evidence gathered was used to convict Ciraolo of possession. The Court concluded that the Fourth Amendment never protects an individual from observations made from vantage points which are available to any member of the public even if something was done to restrict the view. "In an age where private and commercial flight in public airways is routine, it is unreasonable . . . to expect that his marijuana plants were constitutionally protected from being observed with the naked eye from the altitude of 1,000 feet."

The Exclusionary Rule

As you can see, the Fourth Amendment has a great impact on how police officers investigate crimes and gather evidence for use in criminal proceedings. The U.S. Supreme Court established a precedent by ruling that evidence which is acquired through an "unreasonable" search or seizure may not be used at trial. This precedent created what is known as the exclusionary rule.

The Supreme Court has said that breaking the law should not help the police convict criminals. With some exceptions, U.S. courts will not admit any material into evidence (whether papers, objects such as illegal drugs or testimony such as confessions) which is a result of illegal activity on the part of law enforcement officers.

Issues concerning the use of illegally seized evidence often arise in prosecuting drug cases. Controlled substances themselves, large quantities of money or transaction records can be key items for obtaining convictions of suspected sellers or possessors of drugs.

Weeks v. United States (1914)

The Supreme Court established the basic doctrine behind the exclusionary rule more than a century ago. In 1914, the Court anchored its precedent on Fourth Amendment grounds in the case of Weeks v. United States. The Court stated:

If letters and private documents can be thus seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment declaring his right to be secure against such searches is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in the fundamental law of the land.

There were two major reasons given by the Supreme Court to justify the exclusionary rule.

- **The fruit of a poisoned tree is as poisonous as the tree itself.** That is, evidence resulting from illegal activity is, like the activity, tainted with illegality and injustice. Further, if the courts base decisions on this "ill-gotten gain," they have participated in the illegality, and their decisions are unjust.
- **Excluding tainted evidence is the most practical way to prevent police abuse of Fourth Amendment rights.** Police will not resort to illegal searches and seizures if the results of these activities are useless.

The Supreme Court Extends the Exclusionary Rule to the States

The early decisions affected only federal courts. Until the middle of this century, two-thirds of the state court systems rejected the exclusionary rule. Some state courts reasoned that it only

protected guilty persons. Others reasoned that it was an unnecessary burden on police. "Is it right," asked an opinion of the New York Court of Appeals in 1926, that "the criminal is to go free because the constable has blundered?"

Because few states voluntarily adopted the rule, the Supreme Court was asked in Wolf v. Colorado (1949) to make the rule apply to state criminal procedures. The petitioner's attorneys argued that the exclusionary rule protects Fourth Amendment rights. Such rights are a basic and necessary part of legal due process. Under the Fourteenth Amendment, no state can deprive any citizen of the due process of law. Therefore, the exclusionary rule should apply to state criminal trials.

The Supreme Court decided that the exclusionary rule was not the only way to protect citizens' Fourth Amendment rights. Since the rule itself was not mandated by the Constitution, each state could make its own decision about how to uphold the Fourth Amendment. Forcing obedience to the rule would violate states' rights.

Wolf didn't settle the problem on tainted evidence. It simply tossed this question back to state judiciaries and law enforcement. Some states tried alternative methods of police control. Throughout the 1950's, however, support for the exclusionary rule grew. The California Supreme Court explained both the dilemma and its decision to adopt the rule. "*We have been compelled to reach [this] conclusion," it stated in People v. Cohan (1955), "because other remedies have completely failed to secure compliance with the constitutional provisions on the part of police officers, with the attendant result that the courts under the old rule have been constantly required to participate in, and in effect condone, the lawless activities of law enforcement officers.*"

Mapp v. Ohio (1961)

In 1961, the unresolved conflict between illegally obtained evidence and states' rights reappeared before the Supreme Court. The case was Mapp v. Ohio. The petitioner, Ms. Mapp, lived with her young daughter in a two-story house in Cleveland, Ohio. On May 23, 1957, Cleveland police appeared at her door and demanded entry. Though they gave Mapp no explanation, they later said they were responding to a tip about a recent bombing.

After phoning her attorney, Mapp refused to let the officers in without a warrant. They retreated. Three hours later, reinforcements arrived and police demanded entrance. Mapp did not respond so police broke into the house.

Ms. Mapp was in the stairway when the police entered. She demanded to see their warrant. An officer waved a piece of paper at her, and she grabbed it. Before she could read it, officers forcibly retrieved the paper and handcuffed the woman. They then dragged her upstairs and searched through the belongings and personal papers in her bedroom.

By this time, Mapp's attorney had arrived. Police would not let him in the house. Officers continued their work searching through the rest of the house, including the child's bedroom. After a thorough search, all that officers found were some obscene materials tucked away in a trunk in a corner of the basement. Mapp was arrested, tried for and convicted of possessing these materials.

During Mapp's trial and the subsequent appeals, the state never denied that the police search was illegal. But no matter how badly the police behaved, Ohio attorneys argued, their actions did not affect the facts of the case. Mapp did have obscene materials in her basement. She was guilty as charged. Her conviction should not be overturned. Just as they had decided in Wolf, the High Court should let each state handle police excesses in its own way.

The Supreme Court, however, would not tolerate such an abuse of police power. Ruling that "nothing can destroy a government more quickly than its failure to obey its own laws," the Court threw out Mapp's conviction and returned the case to a lower court for further proceedings. In doing so, the Court extended the exclusionary rule to all criminal trials in the country, both state and federal.

The final paragraph of the majority opinion sheds light on this difficult decision:

Having once recognized...that the right to be secure against rude invasions of privacy by state officers is constitutional in origin, we can no longer permit that right to remain an empty promise...We can no longer permit it to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend its enjoyment. Our decision, founded on reason and truth, gives to the individual no more than that which the

Constitution guarantees him, to the police officer no less than that to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice.

The Mapp decision did not end national discussion of the exclusionary rule or conflict over its application. The Supreme Court has considered the issue many times. In recent years, the Supreme Court has approved a number of exceptions to the exclusionary rule.

*Courts can admit illegally seized evidence if it is more likely than not that, in time, police would have discovered the evidence legally.

*If criminal defendants take the stand to testify in their own defense, evidence illegally seized can be used to impeach the witness.

*Evidence gathered by police acting in good faith can be admitted if the police are reasonably relying on a search warrant which turns out to be technically defective or, through a judge's error, turns out not to be based on probable cause.

Concerns about our country's drug problems have fueled new debates about the exclusionary rule. Critics of the rule claim that the exclusionary rule hampers law enforcement from effectively getting convictions against drug offenders. This is because, the argument goes, needed evidence is suppressed due to technical violations of Fourth Amendment requirements or other protections contained in the Bill of Rights. There are indications that the public shares these concerns. A poll conducted by the Washington Post found that 62 percent of those polled were willing to give up "the basic freedoms" of the Bill of Rights if that would help solve the drug problem.

Supporters of the exclusionary rule argue that it and other Court-mandated rules designed to protect a defendant's rights are not to blame for law enforcement's difficulties in stopping the use of or trade in drugs. They argue that only a very small percentage of drug or other criminal prosecutions are affected by successful claims to suppress evidence, partly because law enforcement does a good job of following the rules. Secondly, they argue that the war on drugs is not hampered by the protections of the Bill of Rights, but by a lack of resources and the fact that the demand for drugs remains high.

One thing is clear: the debate over the exclusionary rule will continue for many years to come.

For Discussion and Writing

1. What is the exclusionary rule and why was it established?
2. Does the exclusionary rule work to prevent abuses like those inflicted upon Ms. Mapp? Did Ms. Mapp suffer injuries other than criminal conviction? If so, were those injuries rectified by the exclusion of evidence and the reversal of the conviction?
3. Three of the nine Supreme Court justices who decided Mapp v. Ohio voted against the exclusionary rule. What arguments might be used against the rule?
4. According to the Constitution, "the right of the people to be secure...against unreasonable searches and seizures "shall not be violated. If the exclusionary rule were overturned, how else could people be protected from police abuse?
5. One alternative given to the exclusionary rule has been the availability of civil action (lawsuits) against the police for violating the Fourth Amendment rights of citizens. Would this be an effective deterrent? Would this be sufficient remedy for the injuries suffered?

Police secure entry to alleged crack house. (AP/Wide World Photos)

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UNIT IV

DRUGS AND THE COURTS: APPLYING THE EXCLUSIONARY RULE

As the drug abuse problem continues, law enforcement efforts have increased, especially to prevent drug dealing. The following case raises important questions about search and seizure protections and came before the United States Supreme Court on January 11, 1988.

The Case of Billy Greenwood

Billy Greenwood lived in Laguna Beach, California. Early in 1984, police there received information that Greenwood was a drug dealer. The information came from a federal drug enforcement agent who had been told by a criminal suspect that a large shipment of narcotics was on its way to Greenwood's house in a truck. In addition, one of Greenwood's neighbors complained to police of a large number of vehicles passing through the neighborhood late at night and stopping briefly at the Greenwood residence. The police watched Greenwood's house and verified what the neighbor had said. Police saw a truck leave the house and followed it to another residence that they had previously investigated as a drug dealing location. The police did not believe that they could get a search warrant without further evidence, however. The criminal informant was not seen as reliable.

On April 6, 1984, police investigator Jenny Stracner, who had been working on the case for several months, asked the trash collector in Greenwood's neighborhood to pick up the plastic garbage bags that Greenwood placed on the curb in front of his house and to give her the bags without mixing their contents with refuse from other houses. The trash collector complied with her request. When Stracner searched through Greenwood's trash, she found items related to use of narcotics. She used this information to obtain a search warrant to search Greenwood's home.

When police officers searched Greenwood's home, they discovered quantities of cocaine and hashish. Greenwood and another person, Dyanne Van Houten, were arrested on felony narcotics charges but were released after they posted bail.

Neighbors continued to report that many late night visitors still came to the Greenwood house. On May 4, 1984, another investigator, Robert Rahaeuser, again asked Greenwood's regular trash collector to obtain Greenwood's trash. Again, the investigator found evidence of narcotics use. Rahaeuser secured another search warrant for Greenwood's home based on the information from the second trash search. During the second search of Greenwood's house police found additional narcotics and evidence of narcotics trafficking. The police arrested Greenwood again.

Greenwood's lawyers argued that the search of his trash was unconstitutional and that the evidence obtained from the trash search and the subsequent search of his house should be excluded from the trial court. He said that police would not have had probable cause for a warrant to search his house if they had not first obtained evidence illegally by searching his trash. Greenwood also said that the trash collector was acting as an agent of the police and at the request of the police when he singled out Greenwood's trash from other trash. The State of California argued that Greenwood's trash was collected on the street where it had been left for the trash collector. Under these circumstances Greenwood had left his trash in plain sight and had no reason to expect that his trash would remain private. Therefore, the State of California claimed that its case against Greenwood was valid and so was the evidence.

The California Court of Appeals agreed with Greenwood and so did the California Supreme Court. Finally, the State of California appealed the case to the United States Supreme Court. It asked the Supreme Court to decide whether the rights of Greenwood and Van Houten had been violated in searching the trash in front of the house.

The Greenwood case raises an important question about the exclusionary rule and about the privacy of a citizen's trash: **At what point may police search your trash without a warrant?**

- After it is wrapped and tied in opaque garbage bags?
- After it has been placed at the street for collection?
- After it has been picked up by a trash collector?

A Case in Point: You Decide

After reviewing the Greenwood case, the members of the class will serve as Supreme Court justices and petitioners. The Supreme Court's procedures are simplified to the following steps:

1. Attorney teams (4-6 people) for the Petitioner (the party making an appeal) and for the Respondent (4-6 people) prepare arguments to support their positions and make a presentation (no more than four minutes long) to a court of nine justices. Each side is allowed four minutes for its presentation.

2. As the court (nine justices) hears the arguments, any justice can interrupt to ask questions. After all have spoken, the chief justice moderates a five-minute conference in which justices try to change each others' minds. At the end of the conference, the justices take a final vote.

Time Needed:

- Petitioner's Argument - 4 to 5 minutes, including time for Justices' questions.
- Questions/Answers - 2 to 3 minutes
- Respondent's Argument - 4 to 5 minutes
- Questions/Answers - 2 to 3 minutes
- Justices' Discussion/Ruling - 4 to 5 minutes
- Class Discussion - 20 to 25 minutes

Attorneys' Instructions

As attorneys, you are responsible for presenting the court with sound arguments.

If you represent the Petitioner (the State of California), you will argue that the evidence seized in Greenwood's trash should not be excluded from consideration at trial.

If you represent the Respondent (Greenwood) you will argue that the evidence seized in Greenwood's trash should be excluded at trial.

To prepare your argument, work with your team by considering and writing responses to the following:

- A clear, brief statement of your position.
- At least two facts from the case which support your position.
- An explanation of how each fact supports your position.
- One previous court decision which supports your position.
- One reason why your position is fair to the State or Greenwood.
- One reason why a Court decision in your favor will benefit society.

Make an outline ordering this information so that all of it can be included in a four-minute presentation. Decide which team member will present the information. Finally, assign at least one team member to answer the justices' questions. He or she should prepare by carefully reviewing the case description.

Justices' Instructions

When preparing to hear arguments, Supreme Court Justices review documents with their clerks about a case and identify the questions they want to ask the attorneys. Working with your team, write down the following information:

- What don't you understand about California v. Greenwood?
- What facts do you want clarified?
- Which of their clients' actions would you like the attorneys to justify or explain?

Justices also prepare by reviewing previous court decisions. Which of the cases you read about in "The Exclusionary Rule" could be applied to this case? Remember, when you make your decision about California v. Greenwood you must consider these precedents, but you are not bound by them.

The Judgment

- What were the strongest arguments presented by the attorneys for the State of California? What information or argument would have improved their case?
- What were the strongest arguments presented by the attorneys for Greenwood? What information or argument would have improved their case?

- What were the key questions asked by the justices? What other questions, if any, should they have asked? During their conference, what arguments did they consider? Did they ignore any important arguments?
- Does the justices' decision expand or restrict the exclusionary rule? Why? Do you agree with their decision?

U.S. Supreme Court decisions are made by a process similar to one you just tried, except:

- Attorneys for the Petitioner and Respondent must give the Court detailed written arguments, called briefs, before the case is heard. Because Supreme Court decisions set precedents which affect the entire nation, other interested parties can air their views about a case in Friend-of-the-Court briefs.
- During oral arguments, each side is allowed one half hour which includes questioning by the Court. This time limit is strictly enforced.
- When the Court reaches a decision, the Chief Justice assigns one of the judges to write an explanation of that decision called the **majority opinion**. Justices who support the decision but differ with the majority's reasoning may write a concurring opinion. At least one of the judges who disagree with the decision will write a **dissenting opinion**.

Do you think this process is fair? Why or why not?

Your teacher will explain the Supreme Court's decision in California v. Greenwood. Compare both the judgment and the reasoning behind it with your own.

Your Opinion

Write a short essay supporting or refuting the statement:

The Supreme Court made a wise decision in the California v. Greenwood case.

In organizing your essay:

- Indicate whether you support or refute the decision of the Court.
- Quickly summarize the Greenwood case.
- List two facts which support your statement.
- Cite a previous court case that supports your statement.
- Develop an argument for fairness which supports your statement.
- Develop an argument to demonstrate how this benefits society.

Do not sign your name. Your teacher will give you an ID number to use instead. All papers will be read and critiqued by three students using the student critique sheet.

Student Critique Guidelines

Paper # _____

1. Does the paper (Circle one) SUPPORT/REFUTE the decision of the Court?
2. Is the Greenwood case summarized? YES/NO
   Comments:
3. Are relevant facts presented? YES/NO
   Comments:
4. Is a previous court decision cited? YES/NO
   Comments:
5. Is an argument for fairness given? YES/NO
   Comments:
6. Is an argument illustrating the benefit to society given? YES/NO
   Comments:
7. On the paper mark any spelling, punctuation, or grammatical errors.
8. What is the best part of the paper? What needs improvement?

Police Officer arrests youthful drug suspect. (AP/Wide World Photos)

UNIT V

THE STATE LEGISLATIVE PROCESS: FORMALIZING POLICY THROUGH LAW

Teen Drunk Driving and the State Legislature

In your study of the Greenwood case, you learned more about how the federal judiciary creates policy by interpreting provisions of the Constitution and previous court decisions. In so doing, the Court creates procedures which will guide the trial process and the actions of law enforcement. Now you will explore how the legislative branch formalizes policy by making laws at the state level to deal with a serious problem: teenaged drunk driving.

Drinking and driving are a deadly combination. The National Safety Council estimates that nearly 30,000 people die each year as a result of accidents involving drunk drivers. Thousands more are injured. Fortunately, the overall number of fatalities has decreased over the last several years due to greater public awareness of the problem. Responding to public concerns, the legislatures of many states have passed a variety of laws to deal with drunk driving. These include harsher penalties to deter driving under the influence, mandatory treatment for those convicted and suspension or revocation of driving privileges.

One area of special concern is teenaged driving under the influence. Thousands of young people die in alcohol-related accidents each year and they account for a disproportionate number of accidents as well. Statistics such as these, and pressure from the federal government, has spurred action at the state level. While a number of states had lowered the legal drinking age to 18, faced with the loss of federal highway dollars, all states now have a minimum drinking age of 21. Still, the problem persists.

The State Legislature Acts

Imagine you are a state legislator. Recent events in your state have focused public attention on the problem of teenage drunk driving.

- Two months ago, after attending a basketball game, a school bus full of students was struck by a car driven by a drunk driver. Eight of the passengers were killed; a dozen more were seriously injured. Ironically, the driver of the car was a 17- year-old classmate of the students, also returning from the game. The media has closely followed this case and it was the subject of headlines for weeks.
- Prompted by the bus crash, a television station in the state capitol ran an investigative series of five shows on the problem of teenaged drunk driving. Based on numerous interviews and a poll of high school students, counselors and teachers, the show concluded and reported that more young people abused alcohol than all other substances combined, and that based on police reports, the problem of teenaged drunk driving was especially prevalent in suburban communities.

These events have spurred the state legislature to take action. The Senate formed a special committee that conducted public hearings to determine the extent and nature of the problem and to recommend a possible law to address it. Chaired by Senator Presley, the committee heard from police officers, school officials, child psychologists, and victims of accidents caused by teenage drunk drivers. Based on these hearings, the committee proposed a piece of legislation called the Presley Bill. The following is a summary of the law.

Senate Bill 1499

Provision I. To qualify for a driver's license in this state, all applicants under the age of eighteen must a) submit proof of successful completion of

a unit of instruction on drug and alcohol-abuse awareness, and b) take and pass a drug test.

Provision II. Any licensed driver, under the age of eighteen, convicted of driving under the influence of alcohol or drugs will have his or her license revoked until the age eighteen.

For Discussion

1. What problem is facing the state? Why is this a serious problem?
2. What steps did the state legislature take to respond to the problem?

Representing Your District in Committee

The proposed law is now before the standing Committee on Highways and Public Safety, of which, you are a member. The committee must discuss each provision of the Presley Bill, and by majority vote, decide whether to:

-***Pass*** the provision and send it to the full Senate with a recommendation for approval.

-***Defeat*** the provision and send it to the full Senate with a recommendation not to pass it.

-***Amend*** it by strengthening or weakening specific provisions and send it to the full Senate for approval.

-***Table*** it if a majority vote to pass, defeat or amend cannot be obtained. By refusing to take action on a bill, legislators can defeat it without risking an official and perhaps unpopular position.

Today is the day the committee must vote on the provisions of the Presley Bill and members know that the public will be interested in their decisions. As a member of the Committee, you will participate in determining what happens to SB 1499.

As you study the Presley Bill with other members of the committee, keep in mind that you are representing not only yourself, but also constituencies from your district. Your teacher will assign you one district to represent from among those described below.

District Profile 1

An area of affluent suburbs, District 1 is the home of many constituents who hold prominent and powerful positions in business and society. Most have worked their way up and so they strongly support the system that has rewarded them. In fact, this district, as indicated by opinion polls, has heavily supported every anti-crime candidate and proposition. While many seem concerned about the problem of teenaged drunk driving, many of their own sons and daughters of high school age drive cars back and forth to school.

Among the people in your district who have made substantial contributions to your campaign funds is an informal group that has talked to you privately about their hope that you will oppose the bill.

Teenager Chantee Charles speaks out against drugs. (UPI/Bettmann Newsphotos)

District Profile 2

An area of industrial production and residential suburbs where blue collar workers live, District 2 is the home of people who work hard, but don't necessarily get ahead; people who have little savings and who must rent rather than buy their homes. Recent cutbacks in government contracts hit your district especially hard causing more than 3,000 layoffs.

Your constituents are angry about the teenaged drunk driving situation. In fact, the bus which was struck in the recent accident came from a high school in this district. Still, many voters are unsure of the best solution. Some believe the State needs stronger laws against drug dealers. Many blame the police force as being inadequate. Many older citizens in the area think the increased crime is the result of acts by young people whose parents and teacher have been "too soft." They would like to see crime-fighting resources concentrated on catching and punishing juveniles who they view as "out of control." However, many parents have children of school age who have dropped out to go to work.

Some citizens have organized a letter writing campaign and your office has received several hundred letters urging you to support the bill.

District Profile 3

The University's largest campus is in your district as well as some very pleasant, but not affluent residential suburbs. Your district also includes Peaceful Lake, an important recreation area and the location of a well-known resort. Around the University, drunk driving is mostly caused by students over age 21 returning from bars or parties.

The people in District 3 have conflicting views about SB 1499. Constituents from Peaceful Lake want to do something about the drunk driving problem by taking well-publicized action against drug-related crime. Many voters, especially those near the University, think that SB 1499 violates equal protection by singling out young people as the major problem.

You have received several visits from representatives of the Peaceful Lake Chamber of Commerce urging you to support SB 1499, but you are also aware that several groups are threatening letter writing campaigns against representatives who support this measure.

District Profile 4

The people in this entirely rural district live in small towns or on isolated farms. Many work for large agricultural companies. Other make a living from family farms and from the summer tourist trade in the small beach cities along the coast.

Your constituents are outraged by the recent events involving youthful drunk driving. They believe that the only way to stop it is to make an example of teenage law breakers and punish them harshly. Still, many teenagers from the district need to drive to help out with family business. Your district has the largest per capita number of teenaged drivers who work in the state.

You are up for re-election this year.

District Profile 5

Your constituents live in the inner city and, for the most part, they are poor. Though some are on welfare, most work at jobs which pay only the minimum wage. There is little industry in the district so most workers must commute long distances.

Among the greatest problems in your district is juvenile involvement in drug use. School officials have told you that many students cannot complete the academic program and drop out of school once they begin to use drugs. Still, the schools have recently developed a new drug and alcohol abuse prevention program that officials feel will be very successful in dealing with the drug problem.

There is strong sentiment in your district among your constituents opposing renewed law enforcement efforts. They feel that police often harass poor people, especially those who are young, without just cause. They fear that SB 1499 could be just another form of harassment.

Additionally, your constituents feel that the programs they have established themselves are more successful than any previous law enforcement effort. They want the police to leave them alone and they want the state to support these new programs in other districts as well as their own.

Developing a Legislative Position

After you have chosen or been assigned to represent a district, study the characteristics of the population in your district and review the provisions of the Presley Bill. Consider the follow-

ing questions:

1. What interests does the bill represent?
2. What interests do the citizens of your district have?
3. How do your constituents feel about the problem the bill is intended to solve?
4. What values or points of view must you as a representative balance?
5. What are the likely consequences of the passage of this bill? Will your constituents be helped or harmed?
6. What possible consequences might there be that are not intended, i.e. could anyone be unexpectedly helped or harmed?

Like all elected representatives, you must consider these questions from two points of view:

What is your personal opinion?

Often representatives are elected because voters trust their personal decisions. What do you think about SB 1499? Will the bill help reduce teenaged drunk driving? What are its strengths? What are its weaknesses? Is the bill consistent with the provisions of the Constitution? Why or why not?

What are your constituents' opinions?

Each representative is elected by voters in one district, an area with special concerns and needs. Your responsibility as a representative includes consideration of these needs. What do the voters of your district think about the issues in the bill? What did you learn about their attitudes from the survey you took yourself earlier in this unit? What do your constituents feel is most important?

These two perspectives sometimes conflict, sometimes not. When there is a conflict, a representative must decide which view to support. In deciding, representatives ask themselves such questions as which view is more practical? What will happen if I vote against my constituents? Is there a compromise position?

Political activists Dick Gregory and Rev. Hosea Williams take their cause to the Capitol steps.
(UPI/Bettmann Newsphotos)

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Committee Action

After identifying your position as a representative, work with others on the committee, most of whom come from different districts, to come to a decision on SB 1499. Begin by selecting a chairperson, who should follow the procedures listed below:

1. Call the meeting to order and read Provision One aloud.

2. Call on each committee member in turn to discuss his or her position and recommendations.

3. Vote on whether to pass this provision as it stands. If a majority votes "Yes," move on to the next provision.

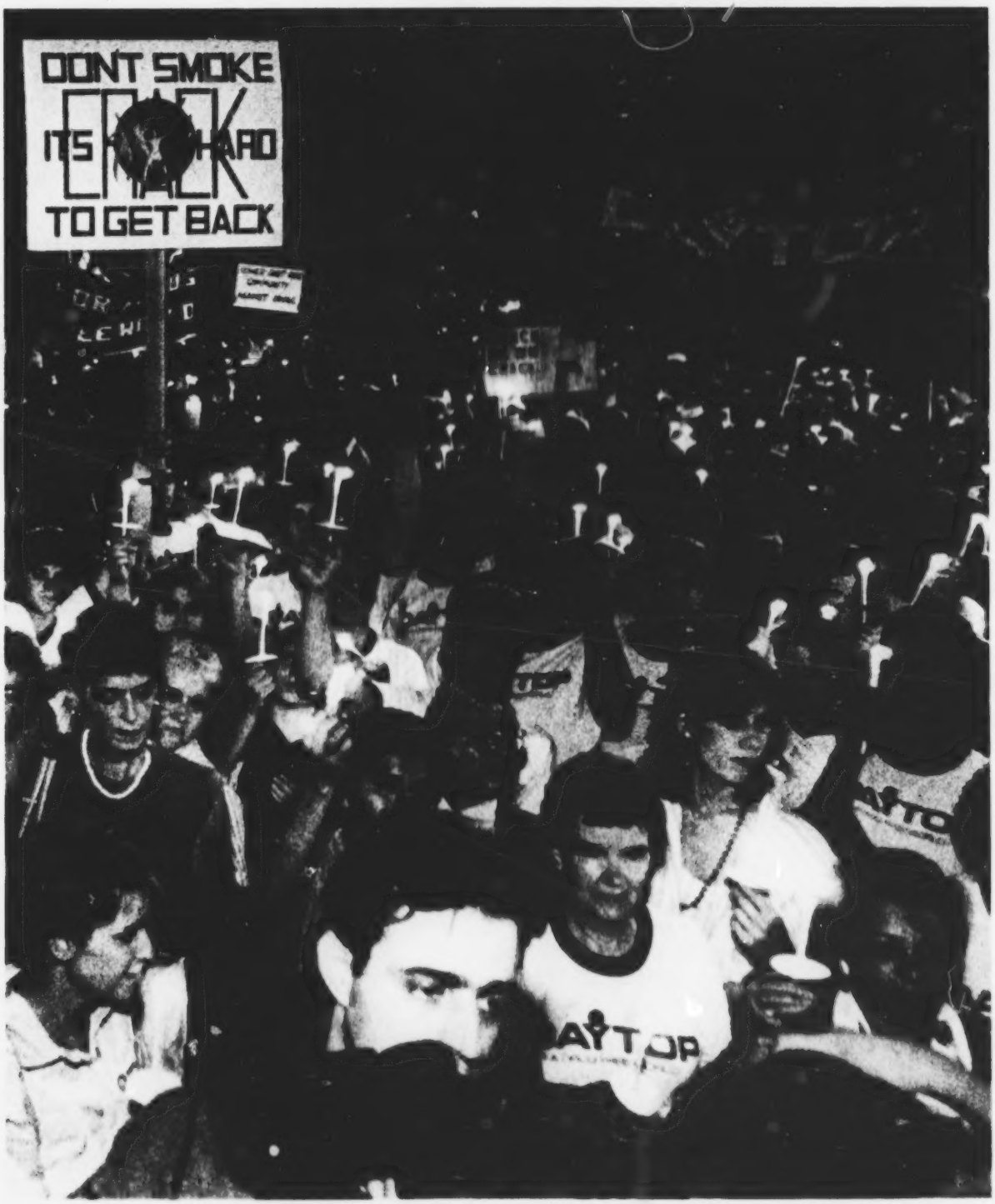
4. If a majority does not vote "Yes," then vote on whether to defeat the provision. If a majority votes to defeat, move on to the next provision.

5. If there is no majority to pass or defeat the provision, ask committee members to state and discuss any proposed amendments. Consider these amendments one at a time and vote on each. Alter the text of the provision to reflect any amendments approved by the majority. Then go on to the next provision.

6. If the committee does not pass, defeat or amend the provision, table it. (Note that committee members who want to table the provision should vote to defeat all other actions or should abstain from voting).

7. Repeat these steps as necessary for both provisions.

8. When its work is complete, the committee should prepare a brief report noting the action taken on each provision. Be sure to include the full text of any amendments you decided to make. Any number may be called upon to give the report.



Citizens take action to stop drugs in New York City. (UPI/Bettmann Newsphotos)

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UNIT VI

MAKING PUBLIC POLICY WORK: THE COMMUNITY AND THE INDIVIDUAL

Using Community Resources to Deal with Problems

The government makes laws, but no law can be effective unless the vast majority of people accept the law and make it work. When a law is passed, legislators often include provisions to implement the law. These provisions are called enabling legislation. With enabling legislation, money is often approved to help start new programs required by the law or to help pay for equipment and training that may be necessary to carry out the law.

The federal government, for example, implements many laws through a program of block grants. These are grants of money to states and local communities for broad categories of programs such as law enforcement or preventive health care or housing. It is up to local or state government to decide how to spend the block grant money in a way that would be best for their own state or community.

For example, in a city with a mayor and city council form of government, the mayor might make recommendations about how the block grant money should be spent. The council would make the actual decision about how it would be spent on new programs or to fund existing city programs. City agencies, such as those in charge of public health or housing, would administer the funds to make sure that the programs funded worked and the funds were spent correctly. These agencies also might give grants or sign contracts with outside groups or private organizations to actually do the work.

Many private organizations in the community that provide help for people who suffer as a result of drug abuse, such as hospitals or counseling centers, depend on money from block grants to continue their efforts. There is always more demand for funds than there are funds available to support these efforts. Therefore, those who are in charge of distributing block grant money must make difficult decisions about what efforts to fund and how much funding each will receive.

Politics: The Art of Informal Persuasion

Often, we hear people say, "It's all politics!" Equally often, what people mean when they say this is that they are not happy with what they view as the special treatment a certain group or individual has received or that they do not like what appears to be an attention to narrow interests. Politics has both a formal and an informal side. The informal side of politics involves an effort to work with decision-makers before they make their decisions by giving them information, advancing a point of view or even offering to support a project or program of interest to the decision-maker in return for consideration of your own special interests.

This form of persuasion is sometimes called lobbying (because such exchanges are normally discussed outside the meeting chamber, i.e. "in the lobby.") and people who make their living in this manner are called lobbyists. Although politicians may claim to dislike lobbyists, the truth is lobbying, moving a point of view forward, is as much a part of politics as elections and voting.

A Local Executive Branch Decides How to Use Community Resources

The community of Middleville has just received federal block grant funds to help solve problems related to drug and/or alcohol abuse. A decision must be made about how the funds are to be used and distributed. The city council has created a special fund in the mayor's budget, and made the mayor responsible for distribution. Many community members and organizations have a great interest in the decision and some ideas on how it should be made.

A few days ago, Mayor Lebow made the following remarks at a breakfast meeting of the Middleville Chamber of Commerce. The remarks were printed in their entirety in the Middleville Daily News. There has been a great deal of discussion about what the mayor said because it was the first time that a city official had publicly acknowledged Middleville's drug abuse problems. The text of Mayor Lebow's speech follows.

Mayor's Speech

Eleven years ago when my administration took office, Middleville's biggest problem was economic stagnation and urban decay. We had little growth; little change. Today, I'm pleased to report that Middleville is bustling. We've attracted three new major industries, each bringing money and jobs to our city.

But while we're enjoying this economic growth, we would be wise to remember Middleville still faces a number of problems. One problem is especially troubling. We've all felt its effects. Some of you have had to bear deeply personal losses. I'm speaking, of course, about our increasing drug problem.

Drug use in and around our schools has increased dramatically. Some teachers report that students use drugs before and after classes. A city-wide investigation of drugs in school resulted in the arrest of several children - both for the possession and the selling of drugs on school property. The increase of juvenile offenders is clogging our already overburdened system.

Drug-related crimes are increasing in certain areas of our city. Drugs are being sold openly on the streets, causing neighborhoods to deteriorate. While our small, but effective police force continues to make arrests, we don't have enough officers to reduce the level of drug-related crimes. In fact, crime in drug-dealing areas has increased 37% from last year.

Along with muggings and robberies, serious crimes, like random drive-by shootings, are also on the rise. Last year nine Middleville citizens, including three children, were killed by drive-by shootings. It is imperative that we resume control of our own streets before the criminals claim these neighborhoods for their own.

Another, perhaps more grievous example of the drug problem, is the increasing number of cocaine-addicted babies being born in our local hospitals. Often these babies require extensive prenatal care. The mothers of these babies cannot pay for medical costs. This taxes our over-burdened health care system. Our hospitals are witnessing an increase in emergency room cases of children who have sustained injuries because of abusive or neglectful parents. Our social care system reports that an increase in child abuse correlates with an increase of parental substance abuse.

Now while these problems often seem overwhelming, let me make one thing clear. Middleville is committed to solving this problem. The federal government has responded with a new block grant to help communities like ours deal with drug-related abuse and crime problems. Under this federal program, Middleville will receive $1,000,000 each year over the next three years in federal monies to be spent entirely on anti-drug programs.

Today I'm appointing a special Anti-Drug Advisory Committee to advise me on the use of these funds. This committee will tell me what our city needs most and how my office can best serve those needs. I have received proposals from various community organizations. We don't have enough money to fund them all at their requested amounts, so I urgently solicit your suggestions. We will be deciding on these proposals in a few weeks.

I remind you that we solved our economic problems together. By continuing to work together, Middleville can overcome its drug problems, too.

An announcement of the new block grant funds for Middleville was made several weeks before Mayor Lebow's speech to the Chamber of Commerce. Community groups that thought they had a chance to obtain some of the funds began preparing proposals for programs to be funded by the money. As soon as the mayor let it be known that proposals were requested, several organizations were ready to deliver them. Within a few days, five proposals arrived at the mayor's office.

It became clear that not every proposal could be fully funded. Either all would be funded for less than requested or some would not be funded at all. Consequently, representatives of each sponsoring group were eager to influence those who would make the final decision.

This evening, the mayor is holding a reception in honor of the Middleville Anti-Drug Advisory Committee. The mayor, staff and the members of the committee as well as representatives of community organizations will be there.

Those who attend Mayor Lebow's reception for the Middleville Anti-Drug Advisory Committee understand that this social event is an important opportunity for the exchange of views informally or "off the record." Both the members of the committee and the representatives of various community organizations know that the decision on who will receive block grant funds could be influenced by talking to the right people.

Program Proposals for First Year Block Grant Funds Proposal Summary

Middleville Human Services $450,000

Wili provide counseling and psychiatric services for people with alcohol and drug abuse problems. Program tries to treat the problem and prevent family members and others associated with addicts from becoming involved with drugs or alcohol themselves. Helps families understand and live with the problems of the addict. Gives special attention to younger people. Funds will be used for salaries and equipment needed at treatment facility and will provide free medically supervised drug substitutes to drug users enrolled in their programs.

Community Educational Link $200,000

Will produce movies and television programs for educational television, schools and other organizations about drug abuse prevention. Programs reach educators, students, parents, and the general public. A speakers' bureau is being formed to accompany the tapes including a lawyer and a doctor team. The teams will be prepared to address schools and community groups discussing both legal and medical questions. Funds will be used for production costs and a staff person to set up and operate the speakers' bureau.

Middleville Youth Camp $250,000

Will provide outdoor activities for delinquent and pre-delinquent youth who are at risk for involvement in illegal drugs and/or gang activities. Helps young people develop a positive view of themselves and of working with others cooperatively through a rigorous weekend program of challenging physical activities such as rock climbing and survival hikes. Drug treatment and counseling will also be available for youth. Sponsored by Middleville Law Enforcement Officers Association. Funds will be used for equipment, transportation, and supplies for trip including purchase of vehicles.

Middleville Child Development $350,000

Will provide temporary care and other services for abused or neglected infants and children under 12 whose parents are drug users. Funds will be used for hotline services, salary for a social worker and payments to families that provide temporary care.

Police Effectiveness Plan (PEP)200,000

Will purchase special police equipment, including infra-red cameras, a new mobile booking station and a motorized battering ram to break down suspected drug dealer's doors. Based on the plan a special task force of up to 20 officers will be trained to use the equipment.

Total requests **$1,450,000**

The Middleville Anti-Drug Advisory Committee

At the conclusion of his talk, Mayor Lebow announced the names of the members of his committee. It was a group that represented many different interests and points of view. Mayor Lebow hoped that by having such a broadly based group, the decisions of the group would be seen as fair to all.

As a member of this committee, your job is to consider the issues carefully and help the mayor decide on the best way to allocate the block grant funds. Because the backgrounds of the committee members are so varied, the mayor will want the committee to develop a consensus on its views before advising him or her on what to do.

The committee chairman has called a preliminary meeting to review the proposals that have been received for the block grant funds. Read through the list of proposals in preparation for the meeting. After you have read the proposals, rate them according to:

- **Effectiveness**: Which programs will help solve Middleville's drug abuse problems? Assign each a number from 1 (best idea) to 5 (worst idea).
- **Value**: Assign each a number from 1 (most delivered for least amount of money) to 5 (least delivered for the most money).

You know that citizen activists will be at the reception and that they will want to talk to you about the funding recommendations you will soon make. Since many are likely to attend the reception, take this opportunity to:

Give feedback. Inform citizens of your concerns about their proposals. Ask them to respond to these concerns by giving you arguments to take to the meeting. How they respond can help give you information to make a decision.

Speak to people from as many groups as possible. Those vying for your attention may resent your spending too much time with any one person or group.

Remember, this is a political function. Be polite, listen carefully, but don't make any promises you can't keep. If you back out of a commitment, the committee and the mayor will look foolish.

	Effectiveness	Value
Middleville Human Services		
Community Educational Link		
Middleville Youth Camp		
Middleville Child Development		
Police Effectiveness Plan (PEP)		

Community Representatives' Instructions

You're uncertain how the members of the Anti-Drug Advisory Committee feel about your organization's proposal for use of the block grant funds. You want to assure that your organization's proposal is fully understood by as many of the members as possible and by the mayor. This reception may be your last chance. Your goal at the reception is to convince the mayor and committee members that your proposal should be fully funded. To do this: review the list of proposals and concentrate on the proposal for your organization.

- Present your best arguments.
- What are the strengths of your organization?
- Why is the proposal a good idea for solving drug abuse in Middleville?
- Keep your presentation brief and to the point.
- Ask for a firm commitment in support of your proposal.
- Time at the reception is limited. Before it begins, plan your strategy.

Should you concentrate on presenting the reasons why your proposal is best? Or on pointing out weaknesses in the other approaches and proposals? You may want to use this chart to analyze both your proposal and the other proposals. The Anti- Drug Advisory Committee is doing the same.

- **Effectiveness**: Which programs will help solve Middleville's drug abuse problems? Assign each a number from 1 (best idea) to 5 (worst idea).
- **Value**: Assign each a number from 1 (most delivered for least amount of money) to 5 (least delivered for the most money).

Should everyone in the group talk with as many Committee members as they can? Or should each group member focus on a different person? Should you try to convince other groups? ***Write a slogan for your group***.

Remember, this is a social occasion. Inappropriate behavior may prejudice members of the committee against you. Avoid arguing or interrupting conversations. See how subtle you can be.

	Effectiveness	**Value**
Middleville Human Services		
Community Educational Link		
Middleville Youth Camp		
Middleville Child Development		
Police Effectiveness Plan (PEP)		

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Executive Action

After the reception, Mayor Lebow and the committee members have a better idea of how concerned citizens feel about the distribution of the block grant funds. They also know more about the individuals and programs that sponsored proposals. This information coupled with their knowledge of the community play an important part in the committee's decision.

As the Anti-Drug Advisory Committee meets in the City Council chambers a few weeks later, the members are ready to discuss the decision on the block grant funds and make a recommendation to the mayor.

The Anti-Drug Advisory Committee will now meet to decide on the funding for each proposal as other members of the class listen and observe. Your facilitator will give directions as to how to conduct the meeting. The committee should review and modify, if necessary, its previous rankings. The committee must now decide on how to spend the $1,000,000. Should the committee fund one or two of the programs it feels is most effective? Should it partially fund several programs? Should it fund the least expensive programs? Will the proposals rated highly serve a broad range of community interests? Will the proposals you fund serve more than one segment of the population? This is an open meeting. The entire class will observe your deliberations. Write the following information on the board. Remember the committee cannot spend more than $1,000,000.

When the Committee has reached a decision on the allocation of the funds, discuss the decision as a class.

What action can you take to solve our society's drug abuse problems? (Barbara Rios, Photo Researchers, Inc.)

	Award	Effectiveness	Value	Request
Middleville Human Services				$450,000
Community Educational Link				$200,000
Middleville Youth Camp				$250,000
MiddlevilleChild Development				$350,000
Police Effectiveness Plan (PEP)				$200,000
TOTAL	$1,000,000			$1,450,000

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DISCUSSION: Evaluating the Actions of the Executive Branch

1. Examine the Anti-Drug Advisory Committee's funding choices. Do they serve a broad range of interests and needs? Is the federal money "well spent?" If your own mayor or city manager followed these recommendations, would you support them? Why or why not?

2. Assume that the Middleville City Council can, by a two-thirds majority, veto the mayor's budgetary decisions. If Mayor Lebow follows the Committee's recommendations and some citizens disagree with them, what further action might they take? In your community, what can citizens do if they disagree with decisions made by the mayor or city manager?

3. is the process by which Mayor Lebow's office made a decision about the distribution of the block grant funds a fair one? Why or why not?

4. In this role play, you experienced some of the factors that influence executive decision-making. How well do you think it works? Did the mayor do enough to meet citizens' needs? Did the Anti-Drug Advisory Committee? How might the mayor's office be made more accountable to the public? The Anti-Drug Advisory Committee?

5. The amount of influence a special interest group has is determined by many factors. For instance, presentation skills may play a part. These were probably observed during the "At the Reception" activity. Which sponsoring groups were most successful during the activity? Why? What other factors might make certain special interest groups more successful than others?

6. Since there are seldom enough community resources to meet all the needs of the community, what can governments do to use resources most effectively in your opinion? Explain your answer.

Glossary

allocate: (v) To set aside, budget or allot something, especially money, for a special purpose.

cartel: (n) An association of industrialists, business firms, etc. for establishing a national or international monopoly by price fixing, ownership of controlling stock.

consensus: (n) A collective opinion or general agreement.

deliberation: (n) The act or process of careful and thorough decision-making; the act of consulting with others as a process of reaching a decision.

destabilize: (v) To upset the stability or smooth functioning of something.

disparage: (v) To insult or slight; to make light of; to belittle.

economic stagnation: (n) When an area stops progressing or developing economically.

exclusionary rule: (n) A rule established by judicial precedent which states that illegally obtained evidence is not admissible in court.

globalization: (n) The act, process or policy of making something worldwide in scope or application.

gross national product: (n) The total market value of all the goods and services produced by a nation during a specified time period.

initiative: (n) The right and procedure by which citizens introduce a policy and through the act of petitioning place that policy on a ballot so it can voted into law by the general electorate.

interdiction: (n) The act of prohibiting or placing under legal sanction; the act of cutting or destroying by firepower so as to halt an enemy's advance.

jurisdiction: (n) The right or authority of legal control; the extent of authority; the territory covered by an authority.

liability: (n) The state of being legally bound or obligated to make good any loss or damage during a transaction or business situation.

lobbying: (n) The act of trying to influence legislators, especially in favor of special interest groups.

magistrate: (n) A civil officer with limited judicial authority to execute and enforce laws.

money-laundering: (n) The act of taking money from illegal transactions and mixing it with legally made money, hiding the money in small overseas banks or in alleged businesses. Money-laundering can be done on a national or international level.

multi-national commodity business: (n) A business that profits from selling a product internationally.

national debt: (n) The total financial obligations of a national government. The money that the federal government has borrowed because its expenditures have exceeded its revenues. In 1986, the United States' national debt exceeded $2 billion.

nonpartisan: (adj) Not based on, influenced by, connected with, or supporting the interests or policies of a political party.

probable cause: (n) In the U.S., a person cannot be arrested without probable cause that he or she was involved in a crime. According to the Supreme Court, probable cause for arrest exists where "the facts and circumstances within the officers; knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief" that a crime has been or is being committed. Reasonable cause for belief that a person is guilty as charged.

recidivism: (n) A tendency to relapse into a former pattern of behavior, especially to return to criminal habits.

referendum: (n) The submission of a proposed law or measure by the legislators to direct vote by the citizens.

reliability: (n) The quality of dependability and trustworthiness. The quality of truthful consistency.

socio-economic: (adj) Having to do with both social and economic structures.

special interest group: (n) An organization of people or businesses held together by similar values or beliefs for which this group pressures legislators to advocate or respond to.

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